HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 18651 OF 2004

DATED: 06.07.2006

Between:

S.A.Rafee and others

… Petitioners

and

The Station House Officer, Mir Chowk
Police Station, Hyderabad and another

…Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.18651 OF 2004

ORAL ORDER:

Heard Sri Vedula Venkata Ramana, learned counsel for the petitioner, learned Government Pleader for Home appearing for the respondent No.1 and Sri Prabhakar Reddy, learned counsel for the respondent No.2 and at the request the writ petition itself is taken up and disposed of.

The writ petition is misconceived.

The petitioner seeks quashing of the F.I.R No.103 of 2004 on the file of the first respondent police station.

According to the petitioner, the second respondent and three of his brothers by name Mohd. Farooq Hussain, Mohd. Ibrahim Husain and Mohd. Suleman Hussain executed an agreement of Sale dated 08.10.2002 in favour of the first petitioner in respect of the house property bearing No.19-2-227/3, 19-2-227/4 and 19-2-276/2 of Bahadurpura, Hyderabad. Under the premise of the agreement of sale the first petitioner paid part of the consideration, the balance payable thereafter in terms of the agreement. The first petitioner delivered possession of the property. As there was interference with his possession and enjoyment the first petitioner filed O.S.No.2415 of 2003 on the file

of the VII Senior Civil Judge, City Civil Court, Hyderabad against the second respondent and his three brothers to restrain them from interfering with the petitioners possession and enjoyment. In I.A.No.1496 of 2003 civil court granted injunction in favour of the first petitioner, which was thereafter made absolute. The second respondent nor his brothers ever preferred any appeal against the interim orders. Further according to the petitioners, the second respondent thereafter filed a complaint on 01.07.2004 nearly two years after the agreement of sale addressed to the first respondent police alleging that the agreement of sale dated 08.10.2002 was forged and the stamp paper on which it was executed was also "forged". This complaint having been referred by the Court of XVII Metropolitan Magistrate, Hyderabad for investigation under Section 156(3) of the Criminal Procedure Code, the first respondent registered the same as F.I.R.No.103 of 2004. The petitioner alleges that the first respondent police have also filed a final report in the Criminal Court that the complaint makes out allegations which are in civil nature.

Since according to the petitioners, the complaint was given two years after the agreement of sale and the institution of O.S.No.2415 of 2003 by the petitioners and as the first respondent police had already filed a final report stating that the complaint of the petitioner is civil in nature, the writ petition is filed alleging that the first respondent is incompetent to further investigate the matter and asserting that the process of such further investigation and calling the petitioners for information or interrogation is illegal. On the above pleadings the relief is sought in the writ petition namely quashing of F.I.R.No.103 of 2004 on the file of the first respondent police station, is claimed.

The first respondent has filed a counter affidavit to the extent relevant and material for the purposes of this writ petition. In paragraph 3 of the affidavit, the first respondent states that though initially it was proposed by the investigating officer to refer the case as civil in nature, in view of the instructions of the Additional Director General of Police, CID, Hyderabad by the letter dated 11.08.2004, the case was not referred as such and is being further investigated to verify the genuineness of the stamp papers on which the agreement of sale was executed. The first respondent states that the signature of the complainant in the above case will be sent for examination to the document expert and further investigation would be done. As there was an interim order in this case the respondent states, further investigation could not be proceeded with.

The complaint of the second respondent certainly constitutes information relating to the commission of a cognizable offence. Therefore the first respondent was obligated to register the complaint and proceed to investigation. No case is made out by the petitioners for quashing F.I.R.No.103 of 2004 on the file of the first respondent police station. As on the account of the interim order granted in this case in October, 2004 and on the basis of a wholly misconceived pleading in the writ petition that the final report had been filed by the first respondent to the effect that the complaint of the second respondent is civil in nature, the investigation was stalled, this Court considers it appropriate to direct the first respondent to expeditiously continue with the investigation into F.I.R.No.103 of 2004, on day to day basis, send signatures of the petitioners on the agreement of sale allegedly executed by the petitioner and his three brothers dated 08-10-2002

for forensic examination for comparison of the signatures and for verification of the genuineness of the stamps to the appropriate forensic agency; correspond with such forensic agency on a weekly basis to expedite receipt of the forensic opinion of the expert agency; and meanwhile to proceed with the other aspects of the investigation and to file a final report within a period of 60 days from the date of receipt of a copy of this order. If any further time be required for any just and explainable cause, the first respondent is at liberty to approach this Court for extension of time by duly stating the reasons why the investigation could not be complied within time stipulated in this order.

With the above directions the writ petition is disposed of. No order as to costs.

GODA RAGHURAM, J

Date: 06.07.2006
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